

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL NO. G-11-04
	§	
JACOBY D. SMITH	§	

**ORDER OF DETENTION PENDING TRIAL**

On May 23, 2011, this Court conducted a Hearing on the Government's Motion to Detain **Jacoby D. Smith**, the named Defendant in the above-styled and numbered cause. The Government appeared by attorney and announced ready; the Defendant appeared in person and by Court-appointed counsel and announced ready. The Government offered the testimony of Brian Fox, a Special Agent with the Bureau of Alcohol, Tobacco and Firearms; the Defendant did not offer any evidence. The Court also made the Pretrial Services report, which recommended detention, a part of the record for purposes of the Detention Hearing only. Having now considered the evidence, the recommendation of the Pretrial Services, and the arguments of counsel, this Court makes the following findings of fact and conclusions of law:

1. That pursuant to the Indictment there is probable cause to believe that **Jacoby D. Smith** has committed the felony offenses of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1);
2. That by virtue of the foregoing finding, the Government is permitted to move for detention pursuant to 18 U.S.C. § 3142(f)(1)(E);
3. That the strength of the Government's case is substantial given the discovery of a rifle in plain view during a search of **Smith's** residence pursuant to a warrant; the discovery of

three (3) pistols during a consensual search of a vehicle owned by **Smith**; **Smith's** expressed admission of ownership of the rifle; and **Smith's** apparent admission of ownership of the pistols;

4. That **Smith** has a prior felony conviction for robbery, reduced from aggravated robbery, a crime of violence;
5. That **Smith** admitted using marijuana and is known to be trafficking in marijuana given controlled purchases of marijuana directly from him;
6. That over two pounds of marijuana were found during the search of **Smith's** residence;
7. That at the time of the current offenses, **Smith** was on bond for two state court felony offenses: aggravated assault with a deadly weapon and burglary of a habitation;
8. That by virtue of the foregoing findings, **Smith** would constitute a danger to the community if released;
9. That the credible evidence and information submitted establishes by clear and convincing evidence that there is no condition or combination of conditions which could be imposed upon **Smith** by this Court to reasonably assure the safety of the community if he were released.

It is, therefore, **ORDERED** that **Jacoby D. Smith** be, and he is hereby, **COMMITTED** to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.

It is further **ORDERED** that **Jacoby D. Smith** **SHALL** be afforded a reasonable opportunity for private consultation with defense counsel.

It is further **ORDERED** that upon Order of a Court of the United States or upon request of an attorney for the Government, the person in charge of the corrections facility **SHALL** deliver **Jacoby D. Smith** to the United States Marshal for the purpose of an appearance in connection with a Court proceeding.

**DONE** at Galveston, Texas, this 23rd day of May, 2011.

  
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John R. Froeschner  
United States Magistrate Judge